

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**In re: KRAIG SCOTT SULLIVAN,
DONNA LYNN SULLIVAN,
Debtors.**

**Case No. 09-18772-RGM
Chapter 11**

**UNION BANK AND TRUST COMPANY
Plaintiff,**

v.

**KRAIG SCOTT SULLIVAN,
and DONNA LYNN SULLIVAN
Defendants.**

**MOTION FOR RELIEF FROM STAY
AND NOTICE OF MOTION AND HEARING**

The Motion of Union Bank and Trust Company respectfully represents:

1. Plaintiff is a banking corporation duly organized and validly existing pursuant to the laws of the Commonwealth of Virginia.
2. On October 23, 2009, an Order for Relief was entered in this case upon the filing of a petition in this Court by the Debtors.
3. No trustee has been appointed and the Debtors remain in possession and control of their estate. The filing of said petition acts as a stay against collection proceedings by Plaintiff against Defendants pursuant to 11 U.S.C. § 362.
4. At the time of the filing of the petition in bankruptcy herein, the Debtors owned the following properties:

Jonathan L. Hauser, VSB No. 18688
Troutman Sanders LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462
(757) 687-7768
(757) 687-1505 - Fax
Counsel for Union Bank and Trust Company

- A. All that certain lot or parcel of land together with all buildings and improvements thereon and all rights and privileges appurtenant thereto, situate, lying and being in the City of Fredericksburg, Virginia, on the East side of Sophia Street, bounded on the North and South by the property owned by the City of Fredericksburg, on the East by the Rappahannock River and on the West by Sophia Street, being commonly known as 1005 Sophia Street in the City of Fredericksburg.

This property has the address of 1003-1005 Sophia Street, Fredericksburg, VA 22401.

- B. **PARCEL ONE:**
All that certain lot or parcel of land situate, lying and being in the City of Fredericksburg, Virginia, beginning at a point on the eastern side of Princess Anne Street 61.9 feet north of the intersection of Princess Anne Street and Canal Street and running with E. J. Cain, formerly Alexander Mills, thence south along the line of Princess Anne Street twenty-eight (28) feet and six (6) inches to the division fence between the lot being conveyed and the lot retained by W. D. Williams Estate, now W. S. Jackson, thence at right angles with Princess Anne Street and eastwardly along said division fence one hundred and twenty-three (123) feet and six (6) inches to an alley, thence at right angles, or nearly so, and northward along said alley twenty-eight (28) feet and six (6) inches to the line of E. J. Cain, thence at right angles and parallel with Canal Street one hundred and twenty-three (123) feet and six (6) inches to the point of beginning.

PARCEL TWO:

All that certain lot or parcel of land situate in the City of Fredericksburg, Virginia, at the northeast corner formed by the intersection of Princess Anne and Canal Streets, fronting 33.4 feet, more or less, on the east side of Princess Anne Street and extending back easterly between lines parallel or nearly parallel a distance of 123 feet and 6 inches, more or less, bounded on the east by an alley, on the south by Canal Street, on the west by Princess Anne Street, and on the north by a division fence and land now or formerly W. H. Brulle.

This property has the address of 1601-1603 Princess Anne Street, Fredericksburg, Virginia 22401.

- C. All that certain lot or parcel of land with all buildings and improvements thereon and all rights and privileges appurtenant thereto, situate, lying and being in the City of Fredericksburg, Virginia, located on the east side of Sophia Street between William and George Streets and being known as the old Brick Warehouse or old W. K. Gordon lot in Block 13, as shown on a plat dated March 25, 1953, made by L. R. R. Curtis, C.S., and recorded in Deed Book 92, at Page 218, in the Clerk's Office of the Circuit Court of Fredericksburg, Virginia.

This property has the address of 915 Sophia Street, Fredericksburg, Virginia 22401.

5. Plaintiff holds four (4) Notes secured by liens on the aforesaid properties which Notes had principal balances as follows as of the date of the filing of the case herein:
- (a) Note No. 3486 - \$276,902.29;
 - (b) Note No. 3492 - \$378,692.12;
 - (c) Note No. 4487 - \$296,747.66; and
 - (d) Note No. 3494 - \$100,000.00.
6. The indebtednesses aforesaid do not include interest which is increasing on a daily basis nor attorney's fees and costs incurred.
7. The liens aforesaid are in excess of the fair market values of the properties secured thereby. There is no equity in the properties aforesaid for the benefit of the Debtors or their estate.
8. Debtors are unable to afford adequate protection due Plaintiff, and neither the Debtors nor their estate has grounds to resist the entry of an Order terminating the stay aforesaid.
9. Cause exists to terminate the stay aforesaid. The Debtors have failed to make any

payments called for under the terms of any of the Notes. The Debtors have failed to file a plan providing for payment of the Notes; in fact, the U.S. Trustee has filed a Motion to Convert Case to Chapter 7 or Dismiss the case.

10. Plaintiff is being injured by its inability to proceed against the properties securing the indebtedness due to the automatic stay provided for in 11 U.S.C. § 362.

WHEREFORE, Plaintiff moves that the automatic stay provided for by the provisions of Title 11 of the United States Code be modified in conformance therewith, that the provisions of Rule 4001(a)(3) be waived and that it be granted such other and further relief as this Court shall deem proper.

NOTICE OF MOTION AND HEARING

Your rights may be affected. *You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)*

If you do not wish the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then within fourteen (14) days from the date of service of this Motion, you must file a written response explaining your position with the Court at the following address:

*Clerk of Court
U. S. Bankruptcy Court
200 S. Washington Street
Alexandria, VA 22314-5405*

You must also serve a copy on:

*Jonathan L. Hauser, Esq.
Troutman Sanders LLP*

*Office of U.S. Trustee
115 S. Union Street*

222 Central Park Avenue, Suite 2000 Alexandria, VA 22314-3361
Virginia Beach, VA 23462

Unless a written response is filed and served within this fourteen-day period, the Court may deem opposition waived, treat the Motion as conceded, and issue an order granting the requested relief.

If you mail a response to the court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the fourteen-day period.

*Attend the preliminary hearing scheduled to be held on **May 5, 2010, at 9:30 a.m., in Courtroom III, United States Bankruptcy Court, 200 South Washington Street, Alexandria, Virginia 22314.***

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

DATED at Virginia Beach, Virginia, this 9th day of April, 2010.

UNION BANK AND TRUST COMPANY

By: /s/ Jonathan L. Hauser
Of Counsel

Jonathan L. Hauser, Esq.
Virginia State Bar No. 18688
TROUTMAN SANDERS LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462
(757) 687-7768
(757) 687-1505 - Fax

PROOF OF SERVICE

I hereby certify that a copy of the foregoing was sent either electronically or by first class mail, postage prepaid, this 9th day of April, 2010, to all necessary parties including:

Kraig Scott Sullivan
98 Peacock Station Road
Fredericksburg, VA 22406-5138

Donna Lynn Sullivan
3115 Linden Avenue
Fredericksburg, VA 22401

Robert B. Easterling, Esq.
2217 Princess Anne Street, Suite 100-2
Fredericksburg, VA 22401-3359

Office of the U.S. Trustee
115 S. Union Street
Alexandria, VA 22314-3361

and the following 20 largest unsecured creditors:

Bryant Heating & Cooling
508 Deacon Road
Falmouth, VA 22405

Chase
P.O. Box 15298
Wilmington, DE 19850-5298

Citi
Bankruptcy Dept.
P.O. Box 140489
Irving, TX 75014-0489

Target National Bank
c/o Target Credit Services
P.O. Box 1581
Minneapolis, MN 55440-1581

Cox Communications
3080 Centreville Road
Herndon, VA 20171

Capital One
P.O. Box 30285

Salt Lake City, UT 84130-0285

The Twin State Inc.
HC 77 Box 166
Hinton, WV 25951

The Yellow Book
2201 Renaissance Boulevard
King of Prussia, PA 19406-2785

Dominion Virginia Power
P.O. Box 26666
Richmond, VA 23261-6666

Star Directory
605 William Street
Fredericksburg, VA 22401

Stafford Hospital Center
2300 Fall Hill #313
Fredericksburg, VA 22401

Northern Leasing Systems Inc.
P.O. Box 7861
New York, NY 10116

American Express
P.O. Box 981535
El Paso, TX 79998-1535

Brabant's Bkbp & Tax Svc Inc.
P.O. Box 132
King George, VA 22485

Your Community Phonebook
c/o McCarthy Burgess & Wolff
26000 Cannon Road
Cleveland, OH 44146

Quarles Petroleum Inc.
1701 Fall Hill Avenue, Suite 300
Fredericksburg, VA 22401

/s/ Jonathan L. Hauser

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